

August 2006

Update: Sexual Assault Benchbook

CHAPTER 5

Bond and Discovery

5.14 Discovery in Sexual Assault Cases

B. Discovery Rights

1. Generally

By order issued June 29, 2006, the Michigan Court of Appeals vacated its first opinion in *People v Greenfield* (discussed in the June 2006 update to page 269) and issued an opinion identical to the first with the exception of footnote six (discussed below). In the June 2006 update to page 269, change the citation to *People v Greenfield (On Reconsideration)*, ___ Mich App ___ (2006), and insert the following language after the existing text:

Note: By order issued June 29, 2006, the Michigan Court of Appeals vacated its first opinion in *People v Greenfield* and issued an opinion identical to the first with the exception of footnote six. In footnote six of its reissued opinion, the Court expressly recognized that MCR 6.201 applies only to felony crimes. Footnote six as it appears in the second *Greenfield* opinion reads as follows (added language appears in bold):

“MCR 6.201 applies to discovery in both the district and circuit courts of this state. See *People v Sheldon*, 234 Mich App 68, 70–71; 592 NW2d 121 (1999); *People v Pruitt*, 229 Mich App 82, 87–88; 580 NW2d 462 (1998). **We recognize that, in Administrative Order 1999-3, our Supreme Court made clear that, contrary to a statement in *Sheldon, supra*, MCR 6.201 applies only to criminal felony cases. While, as a multiple offender, defendant Greenfield was clearly charged with a felony in this case, we reiterate for the bench and bar that MCR 6.201 does not apply to misdemeanor cases.**”

People v Greenfield (On Reconsideration), ___ Mich App
___, ___ n 6 (2006).

CHAPTER 7

General Evidence

7.15 Privileged Communications with Care Providers

F. Abrogation of Privileges in Cases Involving Suspected Child Abuse or Neglect

Effective July 6, 2006, 2006 PA 264 amended MCL 722.623 to further specify what members of the social work and social service professions are required to report suspected child abuse or neglect. In the March 2003 update to Section 7.15(F) on page 396, replace the first two paragraphs of subsection (F) and the block quote of MCL 722.623(1) with the following:

“(1) An individual is required to report under this act as follows:

“(a) A physician, dentist, physician’s assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, social worker, licensed master’s social worker, licensed bachelor’s social worker, registered social service technician, social service technician, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act.” MCL 722.623(1).

CHAPTER 9

Post-Conviction and Sentencing Matters

9.5 Imposition of Sentence

J. Sex Offenders Registration Act

Effective July 20, 2006, 2006 PA 316 amended MCL 791.240a to require revocation of a sex offender's parole under certain circumstances. Insert the following text on page 471 after the existing paragraph in this subsection:

If an offender required to register under the Sex Offenders Registration Act willfully violates the Act, the parole board must revoke the offender's parole. MCL 791.240a(2).

CHAPTER 11

Sex Offender Identification and Profiling Systems

11.2 Sex Offenders Registration Act

L.* Registration Violation Enforcement; Venue and Penalties

3. Additional Mandatory Penalties

Effective July 20, 2006, 2006 PA 316 amended MCL 791.240a to require revocation of a sex offender's parole under specific circumstances. Insert the following text after the dashed list in sub-subsection (3) on page 528:

See also MCL 791.240a(2), which provides in part:

“If a paroled prisoner who is required to register pursuant to the sex offenders registration act . . . willfully violates that act, the parole board shall revoke the parole.”

*Relettered by the October 2004 update to page 526.